

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JESSE SWANSBROUGH,

Petitioner,

v.

Case No. 08-11275

Honorable David M. Lawson

Magistrate Judge Paul J. Komives

SHILREE A. HARRY,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, OVERRULING PETITIONER'S OBJECTIONS,
DENYING PETITION FOR WRIT OF HABEAS CORPUS,
AND DENYING CERTIFICATE OF APPEALABILITY**

Petitioner Jesse James Swansbrough was convicted by a jury in the Monroe County, Michigan circuit court of armed robbery and possession of a firearm in the commission of a felony, and sentenced to a lengthy prison term. After his convictions were affirmed by the Michigan appellate courts, Swansbrough filed a *pro se* petition for a writ of habeas corpus in this Court under 28 U.S.C. § 2254. The case was referred to Magistrate Judge Paul J. Komives, who filed a thorough report recommending that the petition be denied. The petitioner has filed timely objections to the report and recommendation, consisting of a single page.

Objections to a report and recommendation are reviewed de novo. 28 U.S.C. § 636(b)(1). The Sixth Circuit has stated that “[o]verly general objections do not satisfy the objection requirement.” *Spencer v. Bouchard*, 449 F.3d 721, 725 (6th Cir. 2006). “The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). “[O]bjections disput[ing] the correctness of the

magistrate's recommendation but fail[ing] to specify the findings . . . believed [to be] in error' are too general." *Spencer*, 449 F.3d at 725 (quoting *Miller*, 50 F.3d at 380).

As mentioned, the petitioner's objections occupy but a single page, and merely identify the issues with the petitioner does not agree. Brevity may be the soul of wit, but objections to a magistrate judge's report must contain at least a modicum of substance to permit the Court to conduct its *de novo* review. The objections in this case do not explain why the petitioner believes the magistrate judge's conclusions are erroneous.

Moreover, the Court agrees with the magistrate judge's statements of the law and his analysis. The Court concludes, therefore, that the petitioner is not in custody in violation of the Constitution or laws of the United States.

The Court also finds that a certificate of appealability should be denied. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). To receive a certificate of appealability, "a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (citations omitted). The Court has reviewed the petitioner's claims *de novo*, albeit with the benefit of the magistrate judge's thorough treatment of them, and rejects the petitioner's claims on the merits because the petitioner has not demonstrated a violation

of his rights under federal law. The Court now finds that reasonable jurists could not debate that this Court correctly dismissed the petitioner's claim. Therefore, the Court will deny the petitioner a certificate of appealability.

Accordingly, it is **ORDERED** that the petitioner's objections to the magistrate judge's Report and Recommendation [dkt #15] are **OVERRULED**.

It is further **ORDERED** that the Report and Recommendation [dkt #13] is **ADOPTED**.

It is further **ORDERED** that the petition for a writ of habeas corpus is **DENIED**.

It is further **ORDERED** that a certificate of appealability is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: September 15, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 15, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL